



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201451065

SEP 26 2014

Uniform Issue List: 408.03-00

T:EP:NA:T2

Legend:

Taxpayer A =

IRA X =

IRA Y =

Amount A =

Amount B =

Amount C =

Financial Institution A =

Individual A =

Dear ,

This is in response to your request, dated April 14, 2014, as supplemented by correspondence dated May 2, 2014, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that he received a distribution, on August 15, 2012, from IRA X of Amount A and a distribution on August 29, 2012, from IRA Y of Amount B. Taxpayer A asserts that his failure to accomplish rollovers of Amount A and Amount B within the 60-day periods prescribed by section 408(d)(3) of the Code was due to an error committed by Financial Institution A that was not discovered until after the 60-day period had expired.

Taxpayer A represents that it has been his practice, for more than 10 years, to move his IRA funds to banks which offer the best interest rates. Financial Institution A offered a better interest rate than he was currently receiving so Taxpayer A decided to move his IRA funds to Financial Institution A. Also, he indicated he wished to consolidate his IRAs at one bank.

On August 29, 2012, Taxpayer A went to Financial Institution A and indicated that his intent was to open a rollover IRA using amount C (Amount A plus Amount B, less cash received by Taxpayer A). He was referred to Individual A. Individual A took his information and set up what Taxpayer A thought was a rollover IRA, holding a CD for an 18 month term. One of the checks deposited clearly indicated that it was a distribution to close an IRA. Further, after making the deposit, Taxpayer A received a receipt with the wording "CD/IRA" for Amount C, the amount deposited, which indicated to Taxpayer A that the money was going into a CD within an IRA.

Taxpayer A did not realize Amount C was not placed in an IRA until January 2014, when he received a 1099-INT which indicated that the funds were not in an IRA but in a taxable account. Taxpayer A further represents that Amount C has not been used for any other purpose.

Based on the facts and representations, you request a ruling that the Internal Revenue Service ("the Service") waive the 60 day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount C.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover was caused by an error committed by Financial Institution A.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount C. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount C into a Rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount C will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact ***** . Please address all correspondence to SE:T:EP:RA:T2 .

Sincerely yours,



Jason E. Levine, Manager,
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose